

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL ACTION NO. 4:11-CR-248
	§	
MICHAEL ANGEL PADRON (6)	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on November 9, 2017, to determine whether Defendant violated his supervised release. Defendant was represented by Robert Arrambide. The Government was represented by Kenneth McGurk.

Michael Angel Padron was sentenced on July 10, 2014, before The Honorable Richard A. Schell of the Eastern District of Texas, after pleading guilty to the offense of Conspiracy to Possess with Intent to Distribute 100 Grams or More of Heroin, a Class B felony. This offense carried a statutory maximum imprisonment term of 40 years. The guideline imprisonment range, based on a total offense level of 27 and a criminal history category of I, was 70 to 87 months. Michael Angel Padron was subsequently sentenced to 60 months imprisonment followed by 4 years supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure, \$100 special assessment, drug testing and treatment, and obtain a GED. On June 30, 2016, Michael Angel Padron completed his period of imprisonment and began service of the supervision term. On October 7, 2015, this case was re-assigned to United States District Judge Marcia Crone.

On October 19, 2017, the U.S. Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision [Dkt. 1395 Sealed]. The Petition asserted that Defendant violated four (4) conditions of supervision, as follows: (1) Defendant shall not unlawfully possess a controlled substance; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (3) Defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month; and (4) Defendant shall participate in a program of testing and treatment for alcohol and drug abuse, under the guidance and direction of the United States Probation Office, until such time as the Defendant is released from the program by the probation officer.

The Petition alleges that Defendant committed the following acts: (1) and (2) On December 16, 2016, and September 19, 2017, the Defendant submitted urine specimens that tested positive for marijuana. On January 9, 2017, the Defendant submitted a urine specimen that tested positive for cocaine. All three specimens were confirmed positive by Alere Toxicology Services. On January 11, 2017, during an office visit, Defendant verbally and in writing admitted to using cocaine on January 6, 2017. On August 29, 2017, during an office visit, Defendant verbally and in writing admitted to using marijuana on August 29, 2017; (3) Defendant reported being employed for J & J Tires in McKinney, Texas, for the months of June, July, and August 2017, which was verified to be false information; and (4) On August 15, 2016, Defendant was enrolled in random drug testing with Addiction Treatment Resources in McKinney, Texas, and was required to submit to four drug tests per month. Defendant failed to report for testing on September 21, and 27, 2016;

October 14, 2016; December 19, and 28, 2016; June 14, 2017; July 5, 2017; August 23, and August 25, 2017; and September 13, 2017.

Prior to the Government putting on its case, Defendant entered a plea of true to allegations one (1), two (2), three (3) and four (4) of the Petition. Having considered the Petition and the plea of true to all pending allegations, the Court finds that Defendant did violate his conditions of supervised release.

Defendant waived his right to allocate before the District Judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons for a term of imprisonment of four (4) months, with a three (3) year term of supervised release to follow.

The Court also recommends that Defendant be housed in the Bureau of Prisons Fort Worth, Texas, Men's facility, if appropriate.

SIGNED this 9th day of November, 2017.

A handwritten signature in black ink, appearing to read 'C. Nowak', is written over a horizontal line.

Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE